92-243

Supreme Court, U.S.
FILED
SEP 3 1992
OFFICE OF THE CLERK

NO. 92-

IN THE SUPREME COURT OF THE UNITED STATES
October Term, 1992

JOHN GEORGE BREWER,

Petitioner,

-vs-

STATE OF ARIZONA,

Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE ARIZONA SUPREME COURT

SUPPLEMENTAL BRIEF IN OPPOSITION

GRANT WOODS
Attorney General of
the State of Arizona

PAUL J. McMURDIE
Chief Counsel
(Counsel of Record)
Criminal Appeals Section
Department of Law
1275 W. Washington
Phoenix, Arizona 85007
Telephone: (602) 542-4686

Attorneys for RESPONDENT

TABLE OF CONTENTS

	Page
TABLE OF CASES AND AUTHORITIES	ii
SUPPLEMENTAL AUTHORITY	1
APPENDIX D	D-1
APPENDIX E	E-1

TABLE OF AUTHORITIES

Cases	Page
Demosthenes v. Baal 495 U.S. 731 110 S. Ct. 2223 109 L. Ed. 2d 762 (1990)	1
Whitmore v. Arkansas 495 U.S. 149 110 S. Ct. 1717 109 L. Ed. 2d 135 (1990)	1

SUPPLEMENTAL AUTHORITY

On August 6, 1992, the State of Arizona filed its brief in opposition to the petition for writ of certiorari filed by Ms. Kelly on behalf of John Brewer. In the State's brief, it was noted it appeared Mr. Brewer objected to Ms. Kelly's brief. (Brief in Opposition at 1-2.) Since the filing of the State's brief, the Arizona Attorney General's Office has received additional correspondence from Mr. Brewer wherein he specifically refutes the claim that Ms. Kelly represents him, or that he wishes to pursue discretionary review of his case. (Appendices D and E.) The State of Arizona hereby submits these exhibits in support of its argument that this Court lacks jurisdiction to entertain this petition. Whitmore v. Arkansas, 495 U.S. 149 (1990); Demosthenes v. Baal, 495 U.S. 731 (1990).

DATED this 2nd day of September, 1992.

Respectfully submitted,

GRANT WOODS
Attorney General



PAUL J. McMURDIE
Chief Counsel
(Counsel of Record)

Attorneys for RESPONDENT

APPENDIX D

August 26, 1992

Mr. Paul J. McMurdie
Chief Counsel
Criminal Appeals Section
c/o Office of the Attorney General
1275 West Washington
Phoenix, AZ 85007

RE: State v. Brewer
No. CR-88-0308-AP

Dear Mr. McMurdie:

Enclosed please find a copy of a signed and sworn statement made by me in response to any statement or claim made by Ms. Kathleen A. Kelly regarding her authorization to file an appeal, petition, or other motions in this case.

As laid out in this notarized statement, I have not asked Ms. Kelly to initiate any Court or legal proceedings

on my behalf or in my name in this case. Any statement to the contrary is in error and has no basis in fact.

Additionally, any statement that Ms. Kelly may make implying that she is acting as my legal representative is also in error and is a falsehood. As noted in this statement, and in my letter to you on Aug. 17, 1992, Ms. Kelly, by her own admission, is **not** my attorney, nor does she have the authority to act on my behalf in this matter. I have not asked for her assistance or representation in this case. Neither does any other attorney who may come to you implying that I have asked their assistance in filing an appeal.

Hopefully this sworn and notarized statement can be of assistance in putting to an end this illegal and unauthorized petition for a Writ of Certiorari.

I ask that I be made aware and kept informed of any and all future

developments in this case; especially if there are any further claims, attempts, or motions to appeal - at any level and brought forward by anyone. For, had I of been made aware of this petition and claim of legal representation, this dreadful and unfounded error would not of progressed as far as it has.

In order that any possible misunderstanding that remains can be cleared up, and so that I know where things now stand, I ask that either you or a representative from your office meet with me so that this confusion can finally be put to an end.

If I can be of any further assistance in this matter please do not hesitate to contact me. Thank you.

Respectfully yours,

/S/

John George Brewer

P.O. Box B-69227

Arizona State Prison

Florence, AZ 85232

enclosures:

APPENDIX E

To Whom It May Concern:

This statement is in regards to the Petition for a Writ of Certiorari filed in U.S. Supreme Court by Ms. Kathleen A. Kelly. esq., an attorney at 302 North First Ave. Suite 420 in Phoenix, Arizona.

Contrary to statements made by Ms. Kelly, I did not request that, approve of, consent to, or in any other way ask that or authorize an appeal,motion,petition or any other action be made in this case to any body, court, or other office of inquiry or judgement. To state otherwise is an untruth.

Additionally, until being informed by the Arizona Attorney General's Office on Aug. 12, 1992, I was not even aware that a Petition for a Writ of Certiorari had been filed in this case. This Petition, supposedly done in my name, was filed without my knowledge.

Ms. Kelly also claims that she is my legal representative in this matter. However, I have a letter from her office dated Apr. 17, 1992, in which she clearly states: "My official representation of you is now at an end." Any statement that I have asked her to resume her activities as an attorney on my behalf in this case is completely untrue and in error. I have made no such request of her or any other attorney.

Ms. Kelly has falsely claimed to be my attorney. She has also enacted proceedings in my name without advising or informing me of her actions, or asking me for my authorization or approval. She has lied to the Arizona Attorney General's Office and the United States Supreme Court.

I hereby state and reaffirm my desire to notappeal my sentence or conviction. And, unless Ms. Kelly or any other attorney can show proof that I have

indeed asked for their assistance in filing an appeal, I demand that they cease and desist all action in this case.

/s/

John George Brewer Aug 24, 1992

Subscribed and Sworn before me this 24 day of August 1992

/s/

Notary

My Commission Expires

19 June 1993